

AN ACT relating to drug court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 26A.400 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires, "drug court program" means any drug court program authorized and administered by the Kentucky Supreme Court.
- (2) The Supreme Court of Kentucky shall administer the drug court program to:
 - (a) Develop standards, establish program eligibility, and provide oversight for operation for drug court programs;
 - (b) Define, develop, and gather outcome measures for drug court programs;
 - (c) Collect, report, and disseminate drug court data;
 - (d) Sponsor and coordinate state drug court training; and
 - (e) Apply for, administer, and evaluate any grant for drug court purposes.
- (3) Nothing contained in this section shall confer a right or an expectation of a right to treatment for an offender within the criminal justice system or the juvenile justice system.
- (4) If a defendant has been accepted into the drug court program and is supervised by that program as a condition of probation, the defendant shall not be subject to the supervision of the Division of Probation and Parole during his or her participation in the drug court program.
- (5) (a) 1. Two (2) years after a person's satisfactory completion and graduation from a drug court program, the court with jurisdiction over the action at the time of the person's graduation may expunge any drug-related offense not otherwise barred by this subsection for which the person was admitted into the drug court program if the person has not had any felony or misdemeanor convictions in the time between graduation and the filing of the expungement petition and does not**

have any felony or misdemeanor charges pending or being instituted against him or her. A conviction expunged under this subsection shall not be deemed a first offense for purposes of KRS Chapter 218A or 532 or be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

2. Prior to a hearing on a request for the expungement, notice and an opportunity to be heard shall be afforded to the prosecutor and any identified victim of the offense on the same terms and conditions as an expungement petition under KRS 431.078.

3. Expungement of a conviction under this subsection may occur only once with respect to any person and may not be granted for a capital offense, a Class A or B felony, or a violation of KRS 189.520 or 189A.010.

(b) If the court expunges a conviction under this subsection, the court shall order the expungement of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, except as provided in Section 2 of this Act. The court shall order the expungement on a form provided by the Administrative Office of the Courts. Every agency with records relating to the arrest, charge, or other matters arising out of the arrest or charge that is ordered to expunge records, shall certify to the court within sixty (60) days of the entry of the order that the required expungement action has been completed.

(c) After the expungement of the record, the proceedings in the matter shall not be used against the defendant, except for the purposes of determining the person's eligibility to have his or her conviction expunged under this subsection. The court and other agencies shall reply to any inquiry that no record exists on the matter. Inspection of the expunged records may

thereafter be permitted by the court:

1. Pursuant to Section 2 of this Act;

2. Upon a motion by the person who is the subject of the records, and only to those persons named in the motion; or

3. Upon a motion of the prosecutor to verify a defendant's eligibility to have his or her conviction expunged under this subsection.

(d) A person whose record has been expunged under this subsection shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

➔Section 2. KRS 27A.099 is amended to read as follows:

- (1) The Administrative Office of the Courts shall create an application for use by a defendant requesting deferred prosecution under KRS 218A.14151 which shall include a space for the defendant to indicate all prior convictions and expungements.
- (2) The Chief Justice may authorize the Administrative Office of the Courts to develop, collect, and maintain a listing of persons who have had their records sealed **or expunged** under **Section 1 of this Act or** KRS 218A.14151, 218A.275, ~~**or**~~ ~~and~~ 218A.276. The list may be utilized by the courts and attorneys practicing in the courts to determine whether the person is eligible to participate in a deferred prosecution under KRS 218A.14151 or a treatment or recovery program under KRS 218A.275 or 218A.276, **or to have his or her record expunged under Section 1 of this Act.**